

## ORDINANCE NO. 1900

**AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,  
ADOPTED JULY 24, 1989, AT CHAPTER 3, AIRPORT - AIRCRAFT, ARTICLE II. RULES  
AND REGULATIONS IN GENERAL, BY ADDITION OF DIVISION 9 TO REGULATE  
CERTAIN OPERATIONS OF UNMANNED AIRCRAFT SYSTEMS WITHIN THE  
CORPORATE LIMITS AND POLICE JURISDICTION OF THE CITY OF GULF SHORES  
AND TO PRESCRIBE METHODS OF ENFORCEMENT AND PENALTIES FOR  
VIOLATIONS**

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WHEREAS, The City of Gulf Shores is a Class 8 Alabama Municipality which has been vested with a portion of the state's sovereign power to protect the public, health safety and welfare. *Code of Alabama, 1975, §11-45-1*; and

WHEREAS, Gulf Shores is a unique, coastal-resort location that attracts millions of visitors each year. There are a variety of recreational and business activities in, on, and increasingly above, the beaches, waterways and other public places within the city, including drones, parasails, and banner plane advertising; and

WHEREAS, in recent months the police department of the City has received a variety of complaints from residents and visitors about the operation of unmanned aircraft systems ("UAS"), commonly known as "drones," over beaches and other public places within the City, and residents have also complained that UAS are being flown over their property without permission for the purpose and with the effect of the violation of their reasonable expectation of privacy; and

WHEREAS, recent developments in UAS technology make it possible for drones to travel at speeds in excess of 100 mph; to carry payloads, video cameras and other recording devices; and to be operated remotely from great distances from the operator; all of which increases the potential for injury to persons and property within Gulf Shores; and

WHEREAS, the City Council of Gulf Shores finds that while the majority of devices will be used for lawful purposes, either commercially or by hobbyists, the devices can be used to conduct unlawful or unwanted surveillance, voyeuristic, or other intrusive activities and finds, further, that because UAS are capable of being flown over stadiums, schools, and large public gatherings, such devices could bypass security checkpoints and other public safety measures designed to protect the public; and

WHEREAS, the Federal Aviation Administration's guidance on the use of unmanned aircraft provides that flights may not be conducted over urban or populated areas, heavily trafficked roads, or open-air assemblies of people, absent a convincing showing that such operations can be conducted safely (*Fact Sheet – Unmanned Aircraft Systems*, Federal Aviation Administration, Feb. 19, 2015); and

WHEREAS, the City Council of Gulf Shores Council finds that in order to protect the public health, safety and general welfare it is necessary to adopt reasonable regulations consistent with state and federal law concerning the use of UAS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON JULY 9, 2018, as follows:

**Section 1.** That Article II of Chapter 3, Airport -- Aircraft of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by the addition of Division 9 to read in its entirety as follows:

“DIVISION 9 - OPERATION OF UNMANNED AIRCRAFT SYSTEMS

Sec. 3-164. - Definitions.

In addition to the definitions in Chapter 1 of this Code, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

*Construction Control Line* or *CCL* means a line seaward of which construction activities are restricted or prohibited as defined in Section 7-121 of the Code of Ordinances.

*Contact Information* means full name, resident and business addresses, and home, business and cellular telephone numbers. Contact information shall also include the FAA registration number for the UAS, and the permit number, if any, that has been issued for the flight.

*FAA* means the United States Federal Aviation Administration established pursuant to 49 U.S.C. §106.

*Gulf Beach Area* means the area commencing at the CCL and extending seaward into the waters of the Gulf of Mexico for a distance of 1,000 feet..

*Outdoor Special Event* shall mean any celebration gathering, ceremony, show, exhibit, concert, pageant, rally, demonstration, parade or assembly of any kind which is calculated to attract at any one time the physical attendance of more than one hundred persons and which is held in or on any public beach, public space, open space, plaza street, park, stadium, or any open-air facility or closed-air facility that is open to the public, ticketed and/or non-ticketed audience and is an event intended to attract people. The term also includes, but is not limited to, any event receiving a special event permit pursuant to Chapter 11, Article II of this Code of Ordinances.

*Operate* means to use, cause to use, or authorize the use of a UAS, with or without the right of legal control.

*Operator* is any person who deploys, launches, lands or flies a UAS, and includes any person who is assisting an operator.

*Private place* means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but such term does not include a place to which the public or a substantial group of the public has access.

*Recklessly* shall have the meaning set out in Alabama Code §13A-2-2(3).

*Surveillance* means the secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person observed.

*Unmanned Aircraft Systems (UAS)* shall mean an unmanned aircraft, unmanned aircraft system, or unmanned aircraft vehicle (UAV) that can fly under the control of a remote pilot or by global positioning system (GPS) guided autopilot mechanism. UAS are more commonly known as “drones.”

*Venue* means collectively or individually any and all municipally owned property, public rights of way, and public schools and includes, but is not limited to:

- Adult Activity Center-260 Clubhouse Drive
- Beach-Gulf Place-100 Gulf Shores Parkway
- Beach-Lagoon Pass-1660 West Beach Blvd.
- Beach-East Gulf Place - 209 East Beach Blvd.
- Beach-West Gulf Place-240 West Beach Blvd.
- Beach-West 4th Street-499 West Beach Blvd.
- Beach-West 5th Street-599 West Beach Blvd.
- Beach-West 6th Street-699 West Beach Blvd.
- Beach-West 13th Street-1499 West Beach Blvd.
- Canal Park-50 West Canal Drive
- David L. Bodenhamer Recreation Center-310 West 19th Avenue
- Dog Park - 308 Clubhouse Drive
- Erie H. Meyer Civic Center - 1930 West 2nd Street
- Erie Hall Meyer Municipal Annex -203 Clubhouse Drive Suite A, B
- Erie Hall Meyer Municipal Annex - 205 Clubhouse Drive Suite A, B
- George C. Meyer Tennis Center- 2049 West 2nd Street
- Gulf Shores City Hall-1905 West 1st Street
- Gulf Shores Cultural Center-19470 Oak Road West
- Gulf Shores Museum-244 West 19th Avenue
- Gulf Shores Sportsplex -19025 Oak Road West
- Harry Roberts Community House - 300 East 16th Avenue
- Johnnie Sims Park - 2008 West 3rd Street
- Kid’s Park - 348 West 19th Avenue
- Lagoon Park/Boat Ramp (Mo’s Landing) - 18068 St. Hwy. 180
- Meyer Park - 400 East 22nd Avenue
- Police Station - 220 Clubhouse Drive

Public Works - 160 West 36th Avenue  
Thomas B. Norton Public Library - 221 West 19th Avenue  
Wade Ward Nature Park - 500 Gulf Shores Parkway

Provided, however, that the term Venue shall not include any municipally owned property under lease by the City to the Airport Authority of the City of Gulf Shores for operation of the Jack Edwards National Airport.

*Wildlife* means any live animals living in the wild state, including but not limited to, coyotes, raccoons, foxes, or any other warm-blooded animal, marine mammal, reptile and other amphibious animal found in the wild state.

Sec. 3-165. - Administration; Enforcement; Jurisdiction; Restricted Areas.

(a) This Division shall be administered and enforced by the Police Chief or his authorized designee or designees, and shall apply to all areas within the corporate limits and the police jurisdiction of the City of Gulf Shores.

(b) It shall be unlawful for any person to take off, land, operate, or to assist in the operation of any UAS over, at, or within five hundred feet of any Venue, Outdoor Special Event, or Gulf Beach Area unless such operation has been expressly permitted by the FAA and approved by the City by permit issued pursuant to Section 3-168 below or unless otherwise authorized in Section 3-168 with respect to a local governmental agency and its authorized agents and contractors

Sec. -3-166. - Prohibited Equipment; Safe Operation of Equipment.

(a) It shall be unlawful for any person to operate or possess a UAS that is equipped with any weapon or destructive device; or any modification that has not been approved by the FAA; provided, however, that this Section 3-166(a) shall not apply to any governmental law enforcement agency and its authorized agents when acting in the line and scope of their authority.

(b) It shall be unlawful for any person to operate any UAS while under the influence of alcohol, a controlled substance, or any substance that impairs the mental or physical faculties of a person, or any combination thereof, to the extent that it affects the person's ability to operate a UAS.

(c) It shall be unlawful for any person to recklessly engage in conduct involving a UAS which creates a substantial risk of serious physical injury to another person.

(d) It shall be unlawful to operate a UAS to intentionally engage in surveillance of another person when the other person is located in a private place or to intentionally engage in surveillance of an individual in any place where the individual being observed has a reasonable expectation of privacy, without the prior express or implied consent of the individual being observed, for the purpose of sexual gratification.

(e) It shall be unlawful to operate a UAS with the intent to offend, annoy, abuse, threaten, or harass any person or Wildlife.

Sec. -3-167. - Accidents; Duty to Render Aid; Harassment; Voyeurism Prohibited.

- (a) It shall be unlawful for an Operator, who is directly or indirectly involved in an accident that results in personal injury or property damage, to leave the scene of the accident until the Operator's contact information has been provided to every person sustaining loss or injury, and to any police officer on the scene.
- (b) Operators shall render all reasonable assistance to any person injured in the accident including, but not limited to, calling 911 or otherwise notifying police and emergency medical personnel.
- (c) In case of property damage where the property is unoccupied and/or unattended, Operators shall attach full contact information securely and in a conspicuous place in or on the property.

Sec. -3-168 - Permits; Exceptions

- (a) Permits. In connection with public assembly permits issued pursuant to Article II of Chapter 11 of the Code of Ordinances and commercial film and video production permits issued pursuant to Article VI of Chapter 11 of the Code of Ordinances, the City may issue permits to operators who have a remote pilot airman certificate issued by the FAA for operation of a UAS over a Venue, Outdoor Special Event, or Gulf Beach Area provided the operator agrees to provide the insurance and indemnification in the manner expressed on the permit application, and to abide by all reasonable time, place, manner, and conditions expressed in the permit.
- (b) This Division shall not prohibit the use of a UAS for lawful purposes when operated in a lawful manner by any local governmental agency or an authorized agent or contractor of such agency when acting in the line and scope of his authority and shall not apply to any person holding a permit issued by the City that authorizes the flying of a UAS over a Venue, Outdoor Special Event, or Gulf Beach Area so long as it is operated for lawful purposes and in a lawful manner as may be provided in such permit.

Sec. -3-169. -Violation of Division As Offense; Affirmative Defenses.

Any person violating any provision of this Division shall be guilty of an offense and upon conviction, shall be punished for each offense by a fine of not more than five hundred dollars (\$500.00), imprisonment for a period not exceeding six (6) months, or both.

The following shall constitute an affirmative defense to any criminal action for violation of Section 3-165 (b). The burden shall be on the operator to show, by a preponderance of the evidence, that:

- (a) The operator held a permit issued pursuant to Section 3-168 to operate in an area that is otherwise prohibited by Section 3-165(b); or
- (b) The operator was operating the UAS at the direction of a governmental agency, such that it should be considered a public aircraft; or
- (c) The operator was expressly authorized by the FAA to operate a UAS in city airspace and that the UAS was operated for lawful purposes and in a lawful manner.

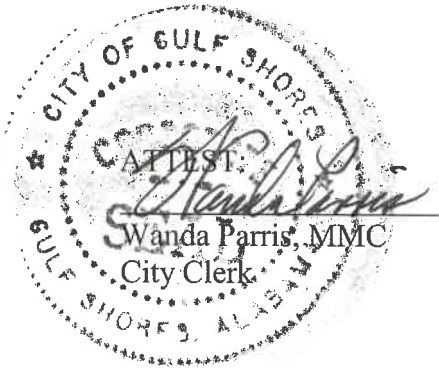
**Section 2.** That this Ordinance shall not be interpreted to repeal any other ordinance of the City of Gulf Shores or any provision of the law of Alabama adopted by operation of Section 1-8 of the City's Code of Ordinances.

**Section 3.** That the provisions of this Ordinance are severable and a determination of the invalidity of any portion of this Ordinance shall not affect the validity and enforceability of the remainder of the Ordinance.

**Section 4.** That this Ordinance shall become effective upon its adoption and publication as required by law.

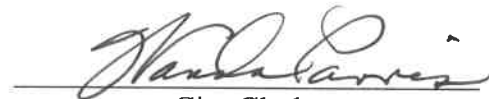
ADOPTED this 9<sup>th</sup> day of July, 2018.

  
Robert Craft, Mayor



CERTIFICATE

I, Wanda Parris, MMC, City Clerk of the City of Gulf Shores, Alabama, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1900-18 (prepared by City Clerk), which Ordinance was duly and legally adopted at a regular meeting of the City Council on July 9, 2018.

  
City Clerk